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Rhonda Zaffino
Rhonda Zaffino

In Re Application of:)	
Thomas D. Petite)	Confirmation No.: 6996
Serial No.: 09/756,386)	Group Art Unit: 2643
Filed: January 8, 2001)	Examiner: Barnie, Rexford N.
For: Multi-Function General Purpose Transceiver)	Docket No. 081607-1021

The following is a list of documents enclosed:

- Return Postcard
- Fee Transmittal
- Credit Card Authorization in the amount of \$220.00 to cover filing fees
- Petition for Extension of Time Under 37 C.F.R. §1.136(a) - One (1) Month
- Appeal Brief Under 37 C.F.R. §1.192 (with Exhibits A-E) (submitted in triplicate)

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ORIGINAL

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

#22
6/4/04
82

In Re Application of:)
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Purpose Transceiver)

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Rhonda Zaffino
Signature – Rhonda Zaffino

APPEAL BRIEF UNDER 37 C.F.R. §1.192

Mail Stop - Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from the decision of Examiner Rexford N. Barnie, Group Art Unit 2643, of January 2, 2004 (Paper No. 17), rejecting claims 33, 35 – 50, 52 – 55 and 57 – 73 in the present application and making the rejection FINAL, and in further consideration of the Advisory Action (paper No. 20) mailed May 11, 2004.

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I. REAL PARTY IN INTEREST

The real party in interest of the instant application is StatSignal Systems, Inc., a corporation, having its principal place of business at 2859 Paces Ferry Road, Suite 700, Atlanta, Georgia 30339. The assignment of the parent application to the present application was recorded on May 16, 1994, on reel 7001, at frame 0587. This assignment conveys all right, title, and interest in all continuation and divisional applications as well, and is therefore effective for the present application.

II. RELATED APPEALS AND INTERFERENCES

There are no known related appeals or interferences that will affect or be affected by a decision in this appeal.

III. STATUS OF THE CLAIMS

All pending claims 33, 35 – 50, 52 – 55 and 57 - 73 stand rejected. No claims have been allowed. The final rejection of claims 33, 35 – 50, 52 – 55 and 57 - 73 is appealed.

Specifically, the FINAL Office Action provisionally rejects claims 33, 35-50, 52-55 and 57-73 under the doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 1-37 of U.S. Patent No. 6,233,327 to Petite (“the ‘327 *Petite* patent”) in view of U.S. Pat. No. 5,343,493 to Karimullah (“*Karimullah*”).

The FINAL Office Action rejects claims 33, 36 – 41, 46 – 50, 53 – 55 and 58 - 73 under 35 U.S.C. §103(a) as being obvious over U.S. Patent 5,714,931 to Petite, *et al.* (“the ‘931 *Petite* patent”) in view of *Karimullah*.

The FINAL Office Action rejects claims 35, 42 – 43, and 52-57 under 35 U.S.C. §103(a) as being obvious over the ‘931 *Petite* patent in view of *Karimullah* and further in view of U.S. Patent No. 6,067,030 to Burnett (“*Burnett*”).

The FINAL Office Action rejects claims 33, 36-41, 46-50, 53-55, 58-66 and 69-73 under 35 U.S.C. §103(a) as being obvious over U.S. Pat. No. 5,748,104 to Argyroudis, *et al.* (“*Argyroudis*”) in view of *Karimullah* or U.S. Pat. No. 5,994,892 to Turino (“*Turino*”) or U.S. Pat. No. 5,761,083 to Brown, Jr., *et al.* (“*Brown*”).

The FINAL Office Action rejects claims 35, 42-45 and 52-57 under 35 U.S.C. §103(a) as being obvious over *Argyroudis* in view of *Karimullah* or *Turino* or *Brown* and further in view of *Burnett*.

IV. STATUS OF AMENDMENTS

No claim amendments have been submitted after the FINAL Office Action, and all claim amendments submitted prior to that have been entered. Applicant filed a “RESPONSE TO FINAL OFFICE ACTION” on March 11, 2004, without amendments, for the purposes of expanding on previous arguments and for narrowing the issues for appeal.

V. SUMMARY OF THE INVENTION

The present application is generally directed to a system for communicating information to a predetermined location using a general purpose transceiver having an open-ended architecture. One advantage of a general purpose transceiver with an open-ended architecture is the ability to use the same transceiver for different uses. This modular approach gives the

transceiver essentially the same function and architecture even though it can receive information from several types of devices, and transmit information to several different destinations.

In accordance with one aspect of the invention, the system includes a transmitter (FIG. 2B, 148) disposed at a first location and configured to transmit a signal including an instruction code (see FIG. 5) and a telephone number to a transceiver (FIG. 2B, R.F. Receiver 150, Transmitter 158; and FIG. 4, 270). The instruction code uniquely identifies an instruction to be executed. Preferably, the transmitter transmits a relatively low-power radio-frequency electromagnetic signal (FIG. 2B, 130; and FIG. 4, 230). The transceiver is disposed remotely from the transmitter (but within range of the transmitted signal) and is configured to receive the transmitted signal. The transceiver circuit (FIG. 4, 270) includes a line interface circuit (FIG. 4, 258) configured to interface with a telephone line that is part of the public-switched telephone network (PSTN) (FIG. 4, "PSTN") and initiate a phone call over the telephone line to the telephone number of a central station (FIG. 4, 262) embedded in the signal. In this regard, the transceiver further includes a controller (FIG. 4, 256) configured to control both the reception of the transmitted signal and to control the communication of information over the telephone line. The system includes a central station remotely located from said transceiver but in communication with said transceiver via the PSTN. The central station further includes a decoder configured to decode the instruction code.

As will be appreciated, the system summarized above provides a robust and flexible platform for providing general purpose communications to a central location. In this regard, the term "general purpose" may also be referred to as an "open ended" platform that may be readily adapted for a wide variety of uses. The instruction code (FIG. 5, "Instruction Code") is a relatively small data value that may be decoded to define a wide variety of functions. For

example, an instruction code a single byte (eight bits) in size may define up to two hundred fifty six different functions or instructions. Similarly, an instruction code two bytes in size may define over sixty-five thousand (2^{16}) functions or instructions.

In operation, the transmitter transmits the instruction code (**FIG. 7, 322**), along with other information such as a telephone number of a central location, to a transceiver located remotely, but generally nearby. The transceiver, which will preferably be integrated into a pay-type public telephone (but which can be integrated into virtually any telephone or other device having access to the PSTN), receives the transmitted information (**FIG. 6, 302**) including the instruction code, and communicates this information to a predetermined location over the PSTN. In this regard, the transceiver is configured with a controller or other appropriate component to place a call to the phone number obtained (**FIG. 6, 306**) from the transmitted information. Once the connection is established, the instruction code may be communicated (as by modem) (**FIG. 6, 310**) to the predetermined location. The predetermined location (which may be a central dispatch location) then decodes the instruction code (**FIG. 7, 326**) to identify the function or instruction that corresponds to the code, and further initiates an appropriate response (**FIG. 7, 328**).

VI. CONCISE STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

The first issue in this appeal is whether claims 33, 35-45, 46-50, 52-54, 55, and 57-65 are unpatentable under the doctrine of obviousness-type double patenting as being obvious over claims 1-37 of the '327 *Petite* patent in view of *Karimullah*. Specifically, as to claims 33, 66, 67, and 68 (the exemplary claims of Claim Groups I - IV), whether the terminal disclaimer filed with the "RESPONSE TO FINAL OFFICE ACTION" obviates the rejection; and, if the terminal disclaimer does not obviate the rejection, whether the FINAL Office Action establishes a *prima*

facie case of obviousness by determining whether the FINAL Office Action provides a legally and substantively proper motivation to combine the '327 *Petite* patent and *Karimullah*, and whether the proposed combination discloses, teaches, or suggests each and every element of claims 33 and 66.

The second issue in this appeal is whether claims 33, 36 – 41, 46 – 50, 53 – 55 and 58 – 73 are unpatentable under 35 U.S.C. §103(a) as being obvious over the '931 *Petite* patent in view of *Karimullah*. Specifically, as to claims 33, 66, 67, and 68 (the exemplary claims of Claim Groups I - IV), whether the '931 *Petite* patent should be excluded as a prior art reference in the §103(a) rejection under 35 U.S.C. 103(c); and whether the proposed combination discloses, teaches, or suggests each and every element of claims 33, 66, 67, and 68.

The third issue in this appeal is whether claims 33, 36-41, 46-50, 53-55, 58-66 and 69-77 35, 42 – 43, and 52-57 are unpatentable under 35 U.S.C. §103(a) as being obvious over *Argyroudis* in view of *Karimullah* or *Turino* or *Brown*. Specifically, as to claims 33 and 66 (the exemplary claims of Claim Groups I and II), whether the proposed combination of *Argyroudis* in view of *Karimullah* or *Turino* or *Brown* discloses, teaches, or suggests each and every element of claims 33 and 36; and whether the FINAL Office Action establishes a *prima facie* case of obviousness by determining whether the FINAL Office Action provides a legally and substantively proper motivation to combine *Argyroudis* with *Karimullah*, *Turino*, or *Brown*.

VII. GROUPING OF THE CLAIMS

The claims are divided into four (4) claim groupings, as set out below. For purposes of the argument set forth in this Appeal Brief, one claim from each group will be evaluated and discussed in connection with the prior art. The claim groups include:

- (1) Claim Group I, which comprises claims 33, 35-45, 46-50, 52-54, 55, and 57-65;
- (2) Claim Group II, which comprises claims 66 and 69-73;
- (3) Claim Group III, which comprises claim 67; and
- (4) Claim Group IV, which comprises claim 68.

Reasons that Claim Groups Do Not Stand or Fall Together

Although, in reality, all claims of an application are distinct, Applicant has grouped the claims of the present application into four distinct claim groups. **One claim for each group has been chosen as the exemplary claim.** The reason that the claims for any given group do not stand or fall with any claims of another group is, ultimately, because they are of differing scope. This differing scope is more specifically set out below.

In regard to Claim Group I, claim 33 (the exemplary claim) is broadly directed to a system for communicating information to a predetermined location. The system includes a low-power transmitter for transmitting information, a transceiver, and central location. The transceiver is located remote from, but in close proximity to, the transmitter and is *configured to establish communication with the central location based on a telephone number included in the low-power signal.*

In regard to Claim Group II, claim 66 (the exemplary claim) is directed toward a transceiver that wirelessly communicates with an extremely low-power transmitter and telephonically communicates with a central location. The transceiver includes a wireless receiver, a telephonic transmitter, and a controller. *The wireless receiver is configured to wirelessly receive an extremely low-power signal being wirelessly transmitted in close proximity to the receiver, the extremely low-power signal comprising encoded information and a telephone*

number. The telephonic transmitter is configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number.

In regard to Claim Group III, claim 67 (the exemplary claim) is directed toward a transceiver that wirelessly communicates with an extremely low-power transmitter and telephonically communicates with a central location. The transceiver includes a wireless receiver, a telephonic transmitter, and a controller, *wherein the controller is a programmable circuit.*

In regard to Claim Group IV, claim 68 (the exemplary claim) is directed toward a transceiver that wirelessly communicates with an extremely low-power transmitter and telephonically communicates with a central location. The transceiver includes a wireless receiver, a telephonic transmitter, and a controller, *wherein the controller further comprises a look-up table configured to decode the encoded information.*

VIII. ARGUMENT

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A. Summary of the Arguments

Applicant has prepared this “Summary of the Arguments” to encapsulate a brief summary of Applicant’s arguments which are set forth in more detail in the Discussion of Claim Groups I – IV.

1. Double Patenting Rejections - Obviousness-type Double Patenting

The FINAL Office Action provisionally rejects exemplary claims 33, 66, 67, and 68 under the doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 1-37 of the ‘327 *Petite* patent in view of *Karimullah*. Applicant submitted a terminal disclaimer in compliance with 37 CFR 1.321(c) in the “RESPONSE TO FINAL OFFICE ACTION” filed March 11, 2004, therefore obviating this rejection. Further, even without the terminal disclaimer, Applicant submits that claims 33, 66, 67, and 68 are not obvious over claims 1-37 of the ‘327 *Petite* patent in view of *Karimullah*.

The Advisory Action mailed May 11, 2004 apparently indicates that the Applicant’s arguments in the Response to Final Office Action mailed March 11, 2004 were not considered because “Applicant’s argument to disqualify the prior art of record would require further search and/or consideration since the prior art was applied preceding the final.” However, the legal basis for not considering the terminal disclaimer is not set forth. Specifically, Applicant is not aware of any requirement that a terminal disclaimer be filed “preceding the final.”

Furthermore, the reason set forth for not considering Applicant’s arguments (“require further search or consideration”) apparently applies only to amendments. However, Applicant did not make any amendments in the Response to Final Office Action mailed March 11, 2004. Accordingly, Applicant submits that the terminal disclaimer must be considered.

2. 35 U.S.C. §103(a) Rejections Based Upon the ‘931 *Petite* Patent in View of *Karimullah*

The FINAL Office Action rejects exemplary claims 33, 66, 67, and 68 under 35 U.S.C. §103(a) as being allegedly unpatentable over the ‘931 *Petite* patent in view of *Karimullah*. Applicant respectfully traverses.

35 U.S.C. §103(c) provides for an exclusion of prior art to be used in a §103(a) rejection. Such prior art must be prior art under §102(e), §102(f), or §102(g) and must be commonly owned with the owner of the invention at the time the invention was made. The ‘931 *Petite* patent is §102(e) art and was commonly owned by the owner of the present invention, Statsignal Systems, Inc., at the time the invention was made. Therefore, the ‘931 *Petite* patent should be excluded as a prior art reference in a §103(a) rejection. For at least this reason, this rejection of claims 33, 66, 67, and 68 should be overturned, as the remaining prior art reference of this §103(a) rejection, *Karimullah*, does not teach or suggest the limitations as presently recited in the claims.

The Advisory Action mailed May 11, 2004 apparently indicates that the Applicant’s arguments in the Response to Final Office Action mailed March 11, 2004 were not considered because “Applicant’s argument to disqualify the prior art of record would require further search and/or consideration since the prior art was applied preceding the final.” However, the legal basis for not considering the disqualification is not set forth. Specifically, Applicant is not aware of any requirement that the prior art of record be disqualified “preceding the final.”

Furthermore, the reason set forth for not considering Applicant’s arguments (“require further search or consideration”) apparently applies only to amendments. However, Applicant did not make any amendments at all in the Response to Final Office Action mailed March 11,

2004. Accordingly, Applicant submits that the arguments to disqualify prior art must be considered.

3. 35 U.S.C. §103(a) Rejections Based Upon *Argyroudis, et al.* in View of *Karimullah* or *Turino* or *Brown, Jr., et al.*

The FINAL Office Action rejects exemplary claims 33 and 66 under 35 U.S.C. §103(a) as being allegedly unpatentable over *Argyroudis* in view of *Karimullah* or *Turino* or *Brown*.

The rejection alleges that *Argyroudis* discloses Applicant's invention substantially as claimed with the exception of a transceiver establishing communication with a destination location based upon a destination telephone number received by the transceiver from a low-power transmitter. The rejection concludes, however, that in view of either the *Karimullah*, *Turino*, or *Brown* disclosures, it would have been obvious to a person having ordinary skill in the art to incorporate the teachings of these disclosures into *Argyroudis* to make it possible to contact a service provider by using a destination identifier including a telephone number. Applicant respectfully disagrees with this rejection for reasons discussed more fully in the arguments presented in the corresponding Claim Groups below. However, Applicant presents a summary of the fundamental difference between the cited art and Applicant's claims 33 and 66.

Applicant first turns to the combination of *Argyroudis* and *Turino*. The FINAL Office Action states that *Turino* "teaches a utility communication system wherein a utility means can transmit information including a telephone number to initiate a call to a central monitoring station." Applicant respectfully disagrees with this statement.

Turino illustrates a transceiver device that communicates with a central location via a telephone line, thus making use of a modem. Utility consumption and/or servicing commands

are communicated via the telephone line. Housed within the transceiver device is the modem and a microcontroller. As with most communication devices that communicate over a telephone line, the microcontroller communicates to the modem data to be sent along with the destination number of the central location. Accordingly, the modem can initiate communication with the central location via the telephone line. It is quite clear that the destination number is stored in memory within the transceiver device and not received remotely from an external transmitter that communicates with the transceiver device wirelessly. For this reason, it is abundantly clear that *Turino* does not teach the elements of the claims 33 and 66 which are missing from *Argyroudis*. Thus, this combination is invalid.

Next, Applicant turns to the combination of *Argyroudis* and *Brown*. The FINAL Office Action states that *Brown* “teaches an energy management and home automation system wherein sensors can transmit signals including a telephone number over a telephone line.” Applicant respectfully disagrees with this rejection.

The lengthy specification of *Brown* fails once to disclose sending a telephone number over a telephone line, in either a downstream or upstream direction. Most of the disclosure of *Brown* is directed toward a downstream communication from a central location to a plurality of remote controllers configured to control a home automation system based upon the downstream communication commands. It is possible for the remote controller to communicate upstream to the central command via a telephone line. However, this capability is common for any communication system that utilizes a telephone line, particularly an automation system.

Brown does not teach forwarding a telephone number of the central location to the remote controller by any wireless transmitter, nor via the telephone line from the central location. One can not assume that a telephone number of the central location is forwarded to a remote

controller as is the case in the presently pending claims, especially considering the lengthy disclosure in *Brown* explaining the contents of the communications received by the remote controllers. Thus, Applicant submits that *Brown* fails to teach forwarding a telephone number to a proxy-type transceiver as presently recited in pending exemplary claims 33 and 66.

Now, turning to the combination of *Argyroudis* and *Karimullah*, The FINAL Office Action states that *Karimullah* “teaches a personal assistance system and method for use with a cellular communication system wherein a low power transmitter (20) can transmit a codeword which includes a telephone number of a service request provider. Furthermore, based on the destination number, a service provider can be contacted accordingly.” Applicant respectfully disagrees and thus traverses this rejection.

Karimullah does teach a remote transmitter sending a service request codeword within data to a cell-site. The cell-site processes this information and forwards to processing center 90. Processing center 90 parses the service request codeword to determine which service to contact as well as a destination number of that particular service. The destination number is then communicated back to the cell-site, where a proxy cell-phone is set-up to act as an intermediary between remote transmitter and the service provider. Clearly, the only information regarding the central location passed to the cell-site from the remote transmitter is the service request codeword.

Figure 1 best illustrates the combined system of *Argyroudis* and *Karimullah*. Figure 2 best illustrates a simplified schematic of an exemplary system of the present invention.

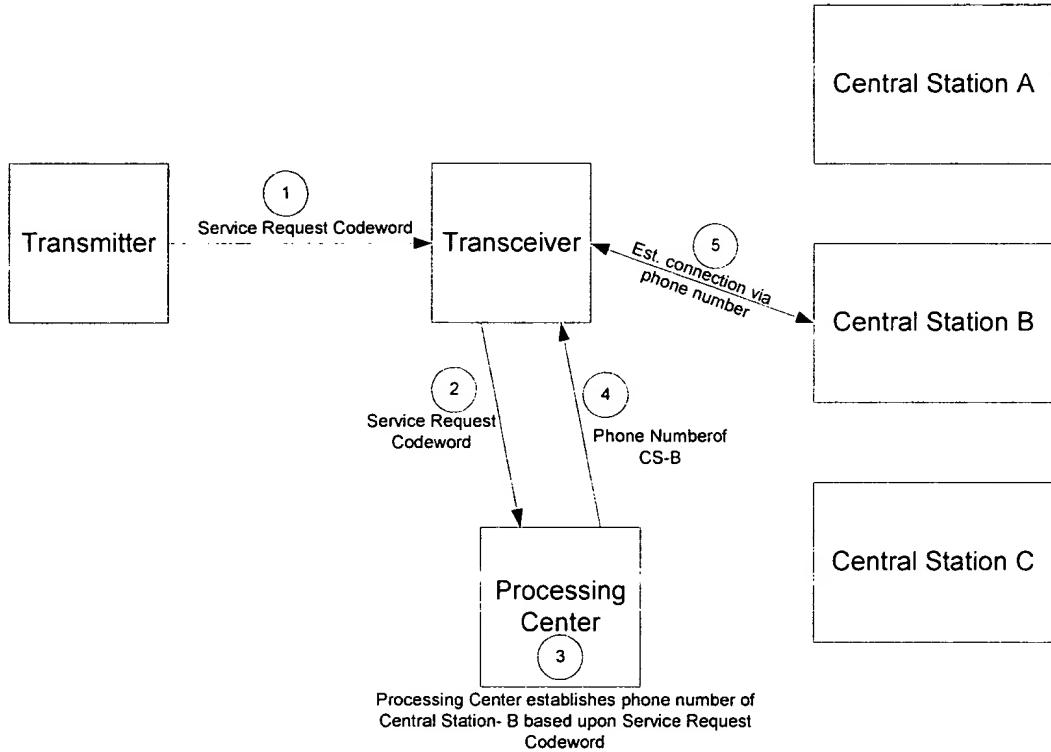


Figure 1. System of Argyroudis and Karimullah

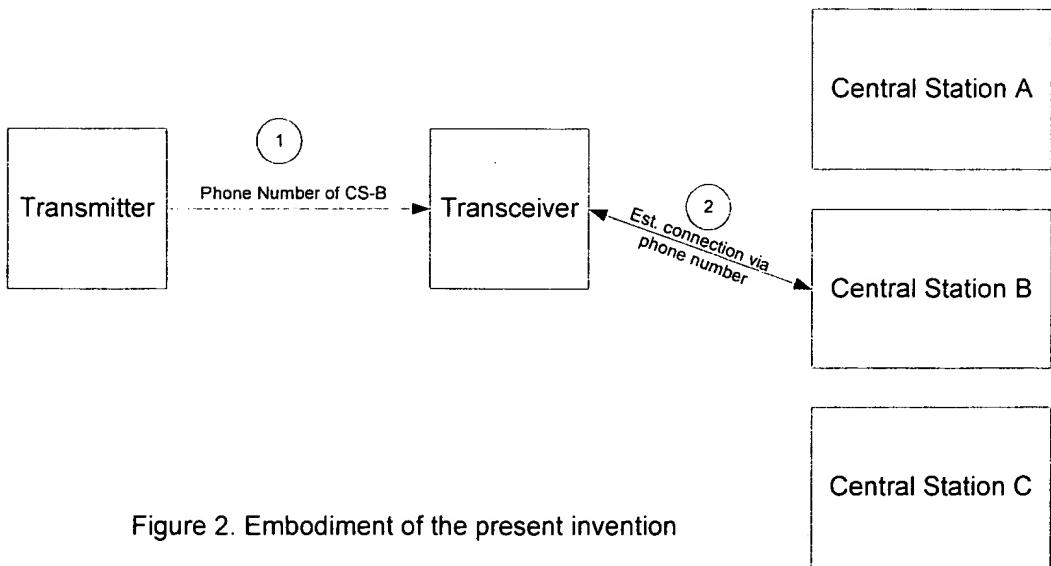


Figure 2. Embodiment of the present invention

Karimullah fails to teach, literally, a transmitter sending a telephone number to the transceiver, whereby the transceiver establishes communications with the central location via the telephone number. The FINAL Office Action states, however, that it would be obvious to send a telephone number to the transceiver, instead of sending a service request codeword, as is the case in *Karimullah*. For the following reasons, Applicant respectfully disagrees.

The system and devices, as claimed in the present invention, do not require the processing center to process a service request codeword as is necessary in *Karimullah*. There are significant differences to not utilizing a processing center, which Applicant believes distinguishes the present invention from that of *Argyroudis* and *Karimullah*.

By directly feeding the transceiver with a phone number, the time of negotiating with a processing center can be avoided. This time can be relevant when considering foreseeable applications. For instance, in emergency response applications, the time necessary to negotiate with the processing center is significant. Second, for transceivers, such as public pay-phones, time of usage becomes relevant should others be waiting to use the public transceivers.

The processing center is another piece of the system that requires maintenance. This is avoided in the present invention. Furthermore, the processing center offers another opportunity in a system for failure. Should the processing center and/or the communication links with the transceiver(s) fail, the entire system fails. This, too, is avoided in the present invention, and presumably results in greater quality of service (QoS). In brief, embodiments of the present invention offer a more streamlined, consistent approach.

In addition, the present invention differs from *Argyroudis* and *Karimullah* in that, if a phone number is changed, the transmitter is thereafter re-programmed in order to operate. In contrast, in the case of *Karimullah*, the processing center can keep abreast of the phone number

changes, and thus dynamically change the phone number. This static vs. dynamic programming is a significant difference between the present invention and that of *Argyroudis* and *Karimullah*.

In conclusion, Applicant respectfully submits that the distinctions between the embodiments of the present invention, as claimed, and the teachings of *Argyroudis* and *Karimullah* are not trivial. Thus, Applicant submits that the present claims are patentably distinct and not obvious in light of *Argyroudis* and *Karimullah*. Notably, all pending independent claims include similar limitations as illustrated above with respect to communicating a telephone number by the transmitter to the transceiver.

B. Discussion of Claim Group I

The FINAL Office Action rejects independent claim 33 under three rationales, each of which should be overturned for the reasons set forth in detail below.

1. The Rejection of Claim 33 under the Doctrine of Obviousness-type Double Patenting is Obviated or Otherwise Improper

The FINAL Office Action provisionally rejects claim 33 under the doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 1-37 of the ‘327 *Petite* patent in view of *Karimullah*. For the foregoing reasons, Applicant submits that this rejection should be overturned.

a. The Terminal Disclaimer Obviates the Rejection

Applicant submitted a terminal disclaimer, which is attached as Appendix B, in compliance with 37 CFR 1.321(c) in the “RESPONSE TO FINAL OFFICE ACTION” filed March 11, 2004, therefore obviating this rejection. For this reason, the rejection to claim 33 should be overturned.

b. *Prima Facie* Case of Obviousness Not Established: Combination of Proposed References Fails to Teach All Elements

Even assuming the terminal disclaimer is not entered in the present case, Applicant respectfully submits that Applicant's claim 33 is not obvious for at least the reason that the proposed combination of claims 1-37 of the '327 *Petite* patent and the teachings of *Karimullah* do not teach each and every element of the claimed invention.

The wireless communication systems of independent claim 33, is designed with "an extremely low-power transmitter configured to wirelessly transmit an extremely low-power signal," and a transceiver "configured to establish communication with the central location based on a telephone number included in the low-power signal." The FINAL Office Action apparently admits that the claims of the '327 *Petite* patent "fail to teach transmitting a destination telephone number or destination number for contact with a central station as part of the signal from the transmitter." However, the FINAL Office Action alleges: "*Karimullah* teaches a low power transmitter wherein the transmitter can transmit a signal made up of a codeword wherein the codeword would include a destination identifier." FINAL Office Action, pg. 4.

Unlike the wireless communication systems and methods of independent claim 33 the system taught in *Karimullah* teaches, at most, a transmission of "*a service request codeword* indicating a request for service from at least one of the service providers 110, *a control channel codeword* identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, *and a transceiver identification codeword* identifying the transceiver." (*Emphasis added*, col. 4, lines 52-60). Further, *Karimullah* discloses that "the *processing center 90 determines the destination number* of the service provider identified by the service request

codeword,” (*Emphasis added*, col. 8, lines 19-20) wherein “the destination number is essentially the telephone number of the BDS 100 used by the requested service provider” (col. 8, lines 25-28). Thus, the transmitter of *Karimullah* does not transmit a “telephone number,” but rather, the processing center 90 determines the telephone number based on the service request codeword, which is not equivalent to a telephone number.

In contrast to the transceiver in *Karimullah*, the general purpose transceiver of claim 33 has an open-ended architecture that is readily adaptable for a wide variety of uses and applications (Application, pg. 1, lines 15-17). The claimed transceiver itself has the ability not only to relay the information to the central location, but also to determine the telephone number included in the low power signal and establish communication with the central server based on that telephone number. Thus, a general purpose transceiver has the capability of working with any of a plurality of remote devices by obtaining data needed to contact a particular central station from the information sent by the individual transmitter (Application, pg. 20, line 6-12). For instance, a single transceiver located in the same proximity of transmitters associated with, for example, vending machines and ATM machines will be able to identify the telephone number sent by the transmitter that corresponds with its particular central station, call the telephone number, and transmit the information to the central location. Thus, the claimed transceivers can be generically manufactured and installed in mass without customized programming, installation, or design for one particular intended use.

Therefore, Applicant asserts that the claim limitation of a transceiver “**configured to establish communication with the central location based on a telephone number included in the low-power signal**,” in claim 33, is not disclosed, taught, or suggested by the proposed combination of claims 1-37 of the ‘327 *Petite* patent and the teachings of *Karimullah* as alleged

in paragraph 2 of the FINAL Office Action. For this reason, the rejection to claim 33 should be overturned.

c. *Prima Facie* Case of Obviousness Not Established: No Suggestion or Motivation to Combine References as Suggested

The rejection of claim 33 should be overturned for the additional reason that the FINAL Office Action has failed to establish a *prima facie* case of obviousness. Specifically, Applicant respectfully submits that there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the claims of the ‘327 *Petite* patent or the disclosure of *Karimullah*.

Applicant respectfully submits that the purported motivation or suggestion provided by the FINAL Office Action (“making it possible to contact a unique service provider based on a transmitted telephone number in times of distress and so forth”) is a classic example of impermissible hindsight reasoning based solely on Applicant’s disclosure.

As apparently admitted in the FINAL Office Action, the ‘327 *Petite* patent does **not** relate to a system that can “contact a unique service provider based on a transmitted telephone number.” Instead, the FINAL Office Action alleges that *Karimullah* teaches this concept.

However, the system taught in *Karimullah* teaches, at most, a transmission of “**a service request codeword** indicating a request for service from at least one of the service providers 110, **a control channel codeword** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, **and a transceiver identification codeword** identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). A “codeword” is not equivalent to the claimed telephone number. Accordingly, *Karimullah* simply does not disclose, teach, or suggest

the concept underlying the motivation to combine as formulated by the FINAL Office Action (“making it possible to contact a unique service provider based on a transmitted telephone number in times of distress and so forth”).

Thus, since neither reference includes this concept, and the concept would not be obvious to one of ordinary skill in the art, it appears that the Applicant’s disclosure provides the impetus for the alleged obviousness. It is apparent that improper hindsight reconstruction was used in rejecting claim 33. For this reason, the rejection to claim 33 should be overturned.

2. Claim 33 is Patentable Over U.S. Patent 5,714,931 to Petite *et al.* in View of Karimullah

The FINAL Office Action rejects claim 33 under 35 U.S.C. §103(a) as being allegedly unpatentable over the ‘931 *Petite* patent in view of *Karimullah*. Applicant respectfully traverses.

a. The ‘931 *Petite* Patent Should Have Been Excluded as a Prior Art Reference in the 35 U.S.C. §103(a) Rejection

35 U.S.C. §103(c) provides for an exclusion of prior art to be used in a §103(a) rejection. Such prior art must be prior art under §102(e), §102(f), or §102(g) and must be commonly owned with the owner of the invention at the time the invention was made. The ‘931 *Petite* patent is §102(e) art and is commonly owned by the owner of the present invention, Statsignal Systems, Inc. Therefore, the ‘931 *Petite* patent should be excluded as a prior art reference in a §103(a) rejection.

The effective filing date of the pending application is prior to the date of patent for the ‘931 *Petite* patent, thus making the ‘931 *Petite* patent §102(e) art and not §102(a) art. Further, ownership of the ‘931 *Petite* patent can be verified by the assignment attached hereto as Exhibit C. Likewise, common ownership of the present application is evidenced by the assignment

attached as Exhibit D, as well as the assignment recorded for the parent application attached as Exhibit E. As noted from the assignment documents, the ‘931 *Petite* patent and the present application were commonly owned by Statsignal Systems, Inc. when the present invention was made.

For at least this reason, §103 (c) requires that the ‘931 *Petite* patent is not prior art. Plus, the remaining prior art reference, *Karimullah*, does not disclose, teach or suggest the limitations as presently recited in the claims. Accordingly, the rejection of claim 33 should be overturned.

b. *Prima Facie* Case of Obviousness Not Established: Combination of Proposed References Fails to Teach All Elements

In the present case, Applicant respectfully submits that Applicant’s claim 33 is not obvious for at least the additional reason that the proposed combination of the ‘931 *Petite* patent and *Karimullah* do not teach each and every element of the claimed invention.

The wireless communication systems of independent claim 33, is designed with “an extremely low-power transmitter configured to wirelessly transmit an extremely low-power signal,” and a transceiver “configured to establish communication with the central location based on a telephone number included in the low-power signal.” As admitted in the FINAL Office Action, the claims of the ‘931 *Petite* patent “fail to teach transmitting a destination telephone number or destination number for contact with a central station as part of the signal from the transmitter.” However, the FINAL Office Action alleges: “*Karimullah* teaches a low power transmitter wherein the transmitter can transmit a signal made up of a codeword wherein the codeword would include a destination identifier.” Office Action, pg. 3.

Unlike the wireless communication systems and methods of independent claim 33, the system taught in *Karimullah* teaches, at most, a transmission of “*a service request codeword*

indicating a request for service from at least one of the service providers 110, *a control channel codeword* identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, *and a transceiver identification codeword* identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). Further, *Karimullah* discloses that “the *processing center 90 determines the destination number* of the service provider identified by the service request codeword,” (*Emphasis added*, col. 8, lines 19-20) wherein “the destination number is essentially the telephone number of the BDS 100 used by the requested service provider” (col. 8, lines 25-28). Thus, the transmitter of *Karimullah* does not transmit a “telephone number”, but rather, the processing center 90 determines the telephone number based on the service request codeword, which is not equivalent to a telephone number.

In contrast to the transceiver in *Karimullah*, the general purpose transceiver of claim 33 has an open-ended architecture that is readily adaptable for a wide variety of uses and applications (Application, pg. 1, line 15-17). The claimed transceiver itself has the ability not only to relay the information to the central location, but also to determine the telephone number included in the low power signal and establish communication with the central server based on that telephone number. Thus, a general purpose transceiver has the capability of working with any of a plurality of remote devices by obtaining data needed to contact a particular central station from the information sent by the individual transmitter (Application, pg. 20, line 6-12). For instance, a single transceiver located in the same proximity of transmitters associated with, for example, vending machines and ATM machines will be able to identify the telephone number sent by the transmitter that corresponds with its particular central station, call the telephone number, and transmit the information to the central location. Thus, the claimed transceivers can

be generically manufactured and installed in mass without customized programming, installation, or design for one particular intended use.

Therefore, Applicant asserts that the claim limitation of a transceiver “**configured to establish communication with the central location based on a telephone number included in the low-power signal,**” in claim 33, is not disclosed, taught, or suggested by the proposed combination of the ‘931 *Petite* patent and *Karimullah*, as alleged in paragraph 4 of the FINAL Office Action. Accordingly, Applicant respectfully submits that the §103 rejection to claim 33 should be overturned.

3. Claim 33 is Patentable Over *Argyroudis* in View of *Karimullah* or *Turino* or *Brown*

The FINAL Office Action rejects exemplary claim 33 under 35 U.S.C. 103(a) as allegedly being obvious over *Argyroudis* in view of *Karimullah* or *Turino* or *Brown*. Specifically, the FINAL Office Action argues that *Argyroudis* teaches all of the claimed features of independent claim 33 except “being able to receive as part of the wireless information transmitted, a destination location identifier such as a destination telephone number.” Furthermore, the FINAL Office Action argues that this missing element is supplied by each of *Karimullah*, *Turino*, or *Brown*, and that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of *Argyroudis* to include the features that are allegedly taught by each of *Karimullah*, *Turino*, or *Brown*.

Applicant respectfully submits that this rejection should be overturned for any of the following reasons, each of which are separately discussed below:

- (a) the FINAL Office Action fails to establish a *prima facie* case of obviousness because the FINAL Office Action has not established the proper suggestion or motivation to combine the references; and
- (b) the FINAL Office Action fails to establish a *prima facie* case of obviousness because, even assuming a proper suggestion or motivation to combine has been established, the combined teachings do not teach all of the claim limitations.

(a) *Prima Facie Case of Obviousness Not Established: Combination of Proposed References Fails to Teach All Elements*

The FINAL Office Action fails to establish a *prima facie* case of obviousness because the proposed combination of *Argyroudis* and *Karimullah, Turino*, or *Brown* do not teach all of the claim limitations of claims 33, 36-41, 46-50, 53-55, 58-66, and 69-73. MPEP §2143.03.

The FINAL Office Action alleges that *Argyroudis* “teaches all the claimed limitation [sic],” but apparently admits that *Argyroudis* is missing the limitation of “being able to receive as part of the wireless information transmitted, a destination location identifier such as a destination telephone number.” Thus, *Argyroudis* does not teach, suggest, or disclose the feature of a transceiver “configured to establish communication with the central location based on a telephone number included in the low-power signal,” as recited in claim 33.

However, the FINAL Office Action apparently alleges that any one of *Karimullah, Turino*, or *Brown* disclose the features missing from *Argyroudis*. Applicant submits that *Argyroudis, Karimullah, Turino*, or *Brown*, separately or in combination, fail to teach all the features of claim 33.

For example, the wireless communication system of independent claim 33, is designed with “**an extremely low-power transmitter configured to wirelessly transmit an extremely**

low-power signal,” and a “transceiver … configured to establish communication with the central location based on a telephone number included in the low-power signal.”

First, as to *Karimullah*, unlike the wireless communication systems and methods of independent claim 33, the system taught in *Karimullah* teaches, at most, a transmission of “*a service request codeword* indicating a request for service from at least one of the service providers 110, *a control channel codeword* identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, *and a transceiver identification codeword* identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). Further, *Karimullah* discloses that “the *processing center 90 determines the destination number* of the service provider identified by the service request codeword,” (*Emphasis added*, col. 8, lines 19-20) wherein “the destination number is essentially the telephone number of the BDS 100 used by the requested service provider” (col. 8, lines 25-28). Thus, the transmitter of *Karimullah* does not transmit “a telephone number,” but rather, the processing center 90 determines the telephone number based on a transmitted codeword. A “codeword” is not equivalent to a “telephone number.” Because a telephone number is not included in the low-power signal, *Karimullah* also can not teach a “transceiver … configured to establish communication with the central location based on a telephone number included in the low-power signal,” as recited in claim 33.

Thus, *Karimullah* fails to teach, literally, a transmitter sending a telephone number to the transceiver, whereby the transceiver establishes communications with the central location via the telephone number. The FINAL Office Action apparently alleges, however, that it would be obvious to send a telephone number to the transceiver, instead of sending a service request

codeword, as is the case in *Karimullah*. For the following reasons, Applicant respectfully disagrees.

The system and devices, as claimed in the present invention, do not require the processing center to process a service request codeword as is necessary in *Karimullah*. There are significant differences to not utilizing a processing center, which Applicant believes distinguishes the present invention from that of *Argyroudis* and *Karimullah*.

By directly feeding the transceiver with a phone number, the time of negotiating with a processing center can be avoided. This time can be relevant when considering foreseeable applications. For instance, in emergency response applications, the time necessary to negotiate with the processing center is significant. Second, for transceivers, such as public pay-phones, time of usage becomes relevant should others be waiting to use the public transceivers.

The processing center is another piece of the system that requires maintenance. This is avoided in the present invention. Furthermore, the processing center offers another opportunity in a system for failure. Should the processing center and/or the communication links with the transceiver(s) fail, the entire system fails. This, too, is avoided in the present invention, and presumably results in greater quality of service (QoS). In brief, embodiments of the present invention offer a more streamlined, consistent approach.

In addition, the present invention differs from *Argyroudis* and *Karimullah* in that, if a phone number is changed, the transmitter is thereafter re-programmed in order to operate. In contrast, in the case of *Karimullah*, the processing center can keep abreast of the phone number changes, and thus dynamically change the phone number. This static vs. dynamic programming is a significant difference between the present invention and that of *Argyroudis* and *Karimullah*.

In conclusion, Applicant respectfully submits that the distinctions between the embodiments of the present invention, as claimed, and the teachings of *Argyroudis* and *Karimullah* are not trivial. Thus, Applicant submits that the present claims are patentably distinct and not obvious in light of *Argyroudis* and *Karimullah*.

Next, unlike the wireless system for communicating information of claim 33, *Turino* discloses, at most, a utility meter having integrated circuitry wherein “the microcontroller commands the modem to initiate calls to a central office at programmed intervals.” (col. 8, lines 17-19). The modem “accepts digital data retrieved from memory by the microcontroller and transferred to the modem” (col. 8, lines 19-21), wherein the “data consists of an identification number (ID#) unique to the residential customer, the central office phone number, and data representing the power consumption.” (col. 8, lines 21-23). Thus, *Turino* simply discloses the wired communication needed between a microcontroller and a modem in a single utility meter to operate an integrated modem. The system merely describes the circuitry commanding a modem to initiate calls. This system describes is nothing more than the circuitry used within any telephone-line based modem. The system does not “wirelessly transmit” the telephone number. This wired system of *Turino* in which the microcontroller “commands the modem” is entirely different from the claimed system configured to “wirelessly transmit an extremely low-power signal” and a transceiver “configured to establish communication with the central location based on a telephone number included in the low-power signal,” as recited in claim 33.

Finally, unlike the system of independent claim 33, *Brown* discloses, at most, that “each control unit 26 and 28 may be directed to perform certain tasks and report the results to a designated telephone number,” (col. 6, lines 56-59) or that “paging signals maybe used to address many [control] units at one time, and then each can call the designated number until a

report is made.” (col. 6, lines 60-62). However, despite that the control unit apparently “can call the designated number” *Brown* does not disclose, teach, or suggest that the designated number is “a telephone number included in the low-power signal,” as recited in claim 33. *Brown* simply does not disclose where the “designated telephone number” originates from. In fact, FIGs. 5-14 of *Brown* describe, in great detail, the content and format of the paged data messages from the command center to the pager receiver in the control unit. None of the nine diagrams, or the associated description, describe a telephone number in the data messages. Thus, *Brown* does not disclose “an extremely low-power transmitter configured to wirelessly transmit an extremely low-power signal,” and a transceiver “configured to establish communication with the central location based on a telephone number included in the low-power signal.”

Therefore, Applicant asserts that the claim limitation of a transceiver “**configured to establish communication with the central location based on a telephone number included in the low-power signal**,” in claim 33, is not disclosed, taught, or suggested by the proposed combination of *Argyroudis*, *Karimullah*, *Turino*, or *Brown* as alleged in paragraph 6 of the FINAL Office Action. Accordingly, Applicant respectfully submits that the rejection to claim 33 should be overturned.

(b) *Prima Facie* Case of Obviousness Not Established: No Suggestion or Motivation to Combine References as Suggested

The rejection of claim 33 should be overturned for the additional reason that the FINAL Office Action has failed to establish a *prima facie* case of obviousness. Specifically, Applicant respectfully submits that there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify *Argyroudis* by incorporating the teachings of *Karimullah*, *Turino*, or *Brown*.

Applicant respectfully submits that the purported motivation or suggestion provided by the FINAL Office Action (making it possible to contact a service provider for a service request, or to inform the service provider about pertinent information by using the destination identifier including a telephone number) is a classic example of impermissible hindsight reasoning based solely on Applicant’s disclosure.

First, as apparently admitted in the FINAL Office Action, *Argyroudis* does not relate to a system that can “inform the service provider about pertinent information by using the destination identifier including a telephone number.” Instead, the FINAL Office Action alleges that the *Karimullah*, *Turino*, or *Brown* patents teaches this concept.

However, the system taught in *Karimullah* teaches, at most, a transmission of “*a service request codeword* indicating a request for service from at least one of the service providers 110, *a control channel codeword* identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, *and a transceiver identification codeword* identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). *Karimullah* simply does not disclose the concept of a “destination identifier including a telephone number.”

Second, the alleged transmitter of *Karimullah* does not transmit “a telephone number,” but rather, the processing center 90 determines the telephone number based on a transmitted codeword. A “codeword” is not equivalent to a “telephone number.”

Third, *Turino* merely describes the circuitry commanding a modem to initiate calls. This wired system in which the microcontroller “commands the modem” is entirely different from the claimed system used to transmit information including a phone number to a transceiver.

Finally, FIGs. 5-14 of *Brown* describe, in great detail, the content and format of the paged data messages from the command center to the pager receiver in the control unit. None of the nine diagrams, or the associated description, describe “a telephone number” in the data messages.

Thus, neither *Argyroudis*, *Karimullah*, *Turino*, nor *Brown* discloses, teaches, or suggests the concept underlying the motivation to combine as formulated by the FINAL Office Action (“making it possible to contact a service provider for a service request, or to inform the service provider about pertinent information by using the destination identifier including a telephone number”). Thus, since none of the four combined references include this concept, and the concept would not be obvious to one of ordinary skill in the art, it appears that the Applicant’s disclosure provides the impetus for the alleged obviousness. It is apparent that improper hindsight reconstruction was used in rejecting claim 33.

Therefore, Applicant respectfully submits that the FINAL Office Action does not establish a proper motivation or suggestion to combine *Argyroudis* with the teachings of *Karimullah*, *Turino*, or *Brown* such as to render obvious claim 33. For this reason, the rejection should be overturned.

C. Discussion of Claim Group II

The FINAL Office Action rejects independent claim 66 under three rationales, each of which should be overturned for the reasons set forth in detail below.

1. The Rejection of Claim 66 under the Doctrine of Obviousness-type Double Patenting is Obviated or Otherwise Improper

The FINAL Office Action provisionally rejects claim 66 under the doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 1-37 of the ‘327 *Petite* patent in view of *Karimullah*. For the foregoing reasons, Applicant submits that this rejection should be overturned.

a. The Terminal Disclaimer Obviates the Rejection

Applicant submitted a terminal disclaimer, which is attached as Appendix B, in compliance with 37 CFR 1.321(c) in the “RESPONSE TO FINAL OFFICE ACTION” filed March 11, 2004, therefore obviating this rejection. For this reason, the rejection to claim 66 should be overturned.

b. *Prima Facie* Case of Obviousness Not Established: Combination of Proposed References Fails to Teach All Elements

Even assuming the terminal disclaimer is not entered in the present case, Applicant respectfully submits that Applicant’s claim 66 is not obvious for at least the reason that the proposed combination of claims 1-37 of the ‘327 *Petite* patent and the teachings of *Karimullah* do not teach each and every element of the claimed invention.

Claim 66 includes “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the **low-power signal comprising encoded information and a telephone number.**” The FINAL Office Action apparently admits that the emphasized text is not claimed in the ‘327 *Petite* patent, but alleges that the feature is disclosed by *Karimullah*.

Unlike claim 66, the system taught in *Karimullah* teaches, at most, a transmission of “*a service request codeword* indicating a request for service from at least one of the service providers 110, *a control channel codeword* identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, *and a transceiver identification codeword* identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). *Karimullah* simply does not disclose, teach, or suggest a “wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number.”

Accordingly, because neither the claims of the ‘327 *Petite* patent or the disclosure of *Karimullah* teach a “wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number,” Applicant respectfully submits that the obviousness-type double patenting rejection be overturned and claim 66 should be allowed to issue.

c. *Prima Facie* Case of Obviousness Not Established: No Suggestion or Motivation to Combine References as Suggested

The rejection of claim 66 should be overturned for the additional reason that the FINAL Office Action has failed to establish a *prima facie* case of obviousness. Specifically, Applicant respectfully submits that there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the claims of the ‘327 *Petite* patent or the disclosure of *Karimullah*.

Applicant respectfully submits that the purported motivation or suggestion provided by the FINAL Office Action (“making it possible to contact a unique service provider based on a transmitted telephone number in times of distress and so forth”) is a classic example of impermissible hindsight reasoning based solely on Applicant’s disclosure.

As apparently admitted in the FINAL Office Action, the ‘327 *Petite* patent does not relate to a system that can “contact a unique service provider based on a transmitted telephone number.” Instead, the FINAL Office Action alleges that *Karimullah* teaches this concept.

However, the system taught in *Karimullah* teaches, at most, a transmission of “***a service request codeword*** indicating a request for service from at least one of the service providers 110, ***a control channel codeword*** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, ***and a transceiver identification codeword*** identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). *Karimullah* simply does not disclose, teach, or suggest the concept underlying the motivation to combine as formulated by the FINAL Office Action (“making it possible to contact a unique service provider based on a transmitted telephone number in times of distress and so forth”).

Thus, since neither reference includes this concept, and the concept would not be obvious to one of ordinary skill in the art, it appears that the Applicant’s disclosure provides the impetus for the alleged obviousness. It is apparent that improper hindsight reconstruction was used in rejecting claim 66. For this reason, the rejection to claim 66 should be overturned.

2. Claim 66 is Patentable Over U.S. Patent 5,714,931 to Petite *et al.* in View of Karimullah

Claim 66 has been rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over the ‘931 *Petite* patent in view of *Karimullah*. Applicant respectfully traverses.

a. The ‘931 *Petite* Patent Should Have Been Excluded as a Prior Art Reference in the 35 U.S.C. §103(a) Rejection

35 U.S.C. §103(c) provides for an exclusion of prior art to be used in a §103(a) rejection. Such prior art must be prior art under §102(e), §102(f), or §102(g) and must be commonly owned with the owner of the invention at the time the invention was made. The ‘931 *Petite* patent is §102(e) art and is commonly owned by the owner of the present invention, Statsignal Systems, Inc. Therefore, the ‘931 *Petite* patent should be excluded as a prior art reference in a §103(a) rejection.

The effective filing date of the pending application is prior to the date of patent for the ‘931 *Petite* patent, thus making the ‘931 *Petite* patent §102(e) art and not §102(a) art. Further, ownership of the ‘931 *Petite* patent can be verified by the assignment attached hereto as Exhibit C. Likewise, common ownership of the present application is evidenced by the assignment attached as Exhibit D, as well as the assignment recorded for the parent application attached as Exhibit E. As noted from the assignment documents, the ‘931 *Petite* patent and the present application were commonly owned by Statsignal Systems, Inc. when the present invention was made.

For at least this reason, §103 (c) requires that the ‘931 *Petite* patent is not prior art. Plus, the remaining prior art reference, *Karimullah*, does not disclose, teach or suggest the limitations as presently recited in the claims. Accordingly, the rejection of claim 66 should be overturned.

b. *Prima Facie* Case of Obviousness Not Established: Combination of Proposed References Fails to Teach All Elements

In the present case, Applicant respectfully submits that Applicant's claim 66 is not obvious for at least the reason that the proposed combination of the '931 *Petite* patent and *Karimullah* do not teach each and every element of the claimed invention.

Claim 66 includes "a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the **low-power signal comprising encoded information and a telephone number.**" The FINAL Office Action apparently admits that the emphasized text is *not* disclosed in the '931 *Petite* patent, but alleges that the feature is disclosed by *Karimullah*.

Unlike claim 66, the system taught in *Karimullah* teaches, at most, a transmission of "**a service request codeword** indicating a request for service from at least one of the service providers 110, **a control channel codeword** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, **and a transceiver identification codeword** identifying the transceiver." (*Emphasis added*, col. 4, lines 52-60). A "codeword" is not equivalent to the claimed telephone number. Accordingly, *Karimullah* simply does not disclose, teach, or suggest a "wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number."

Accordingly, because neither the '931 *Petite* patent nor the disclosure of *Karimullah*, separately or in combination, teach a "wireless receiver configured to wirelessly receive a low-

power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number,” Applicant respectfully submits that the §103 rejection be overturned and claim 66 should be allowed to issue. Accordingly, Applicant respectfully submits that the §103 rejection to claim 66 should be overturned.

3. Claim 66 is Patentable Over *Argyroudis* in View of *Karimullah* or *Turino* or *Brown*

Claim 66 is rejected under 35 U.S.C. 103(a) as allegedly being obvious over U.S. Patent 5,748,104 to Argyroudis *et al.* (“*Argyroudis*”) in view of *Karimullah* or U.S. Patent 5,994,892 to Turino (“*Turino*”) or U.S. Patent 5,761,083 to Brown, Jr. *et. al* (“*Brown*”). Specifically, the FINAL Office Action argues that *Argyroudis* teaches all of the claimed features of independent claim 66 except “being able to receive as part of the wireless information transmitted, a destination location identifier such as a destination telephone number.” Furthermore, the FINAL Office Action argues that this missing element is supplied by each of *Karimullah*, *Turino*, or *Brown*, and that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of *Argyroudis* to include the features that are allegedly taught by each of *Karimullah*, *Turino*, or *Brown*.

Applicant respectfully submits that this rejection should be overturned for any of the following reasons, each of which are separately discussed below:

- (a) the FINAL Office Action fails to establish a *prima facie* case of obviousness because the FINAL Office Action has not established the proper suggestion or motivation to combine the references; and

(b) the FINAL Office Action fails to establish a *prima facie* case of obviousness because, even assuming a proper suggestion or motivation to combine has been established, the combined teachings do not teach all of the claim limitations.

(a) *Prima Facie Case of Obviousness Not Established: Combination of Proposed References Fails to Teach All Elements*

The FINAL Office Action fails to establish a *prima facie* case of obviousness because the proposed combination of *Argyroudis* and *Karimullah, Turino*, or *Brown* do not teach all of the claim limitations of claim 66. MPEP §2143.03.

The FINAL Office Action rejects claim 66 on the same basis as claim 33 with the further allegation that *Argyroudis* discloses that the “home base unit … includes an inherent controller” and the “HBU could have display functions wherein information can be displayed.” However, Applicant submits that *Argyroudis*, *Karimullah, Turino*, or *Brown*, separately or in combination, fail teach all the features as recited in claim 66. For example, claim 66 includes “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number” and “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number.”

As an initial matter, *Argyroudis* does not disclose, and the FINAL Office Action does not even allege the patent discloses, “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number” and “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a

destination identified by the telephone number” as recited in claim 66.

Second, the alleged transmitter of *Karimullah* does not transmit “a telephone number,” but rather, the processing center 90 determines the telephone number based on a transmitted codeword. A “codeword” is not equivalent to a “telephone number.” Because a telephone number is not included in the low-power signal, *Karimullah* also cannot teach “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number,” as recited in claim 66.

Thus, *Karimullah* fails to teach, literally, a transmitter sending a telephone number to the transceiver, whereby the transceiver establishes communications with the central location via the telephone number. The FINAL Office Action apparently alleges, however, that it would be obvious to send a telephone number to the transceiver, instead of sending a service request codeword, as is the case in *Karimullah*. For the following reasons, Applicant respectfully disagrees.

The system and devices, as claimed in the present invention, do not require the processing center to process a service request codeword as is necessary in *Karimullah*. There are significant differences to not utilizing a processing center, which Applicant believes distinguishes the present invention from that of *Argyroudis* and *Karimullah*.

By directly feeding the transceiver with a phone number, the time of negotiating with a processing center can be avoided. This time can be relevant when considering foreseeable applications. For instance, in emergency response applications, the time necessary to negotiate with the processing center is significant. Second, for transceivers, such as public pay-phones, time of usage becomes relevant should others be waiting to use the public transceivers.

The processing center is another piece of the system that requires maintenance. This is avoided in the present invention. Furthermore, the processing center offers another opportunity in a system for failure. Should the processing center and/or the communication links with the transceiver(s) fail, the entire system fails. This, too, is avoided in the present invention, and presumably results in greater quality of service (QoS). In brief, embodiments of the present invention offer a more streamlined, consistent approach.

The present invention also differs from *Argyroudis* and *Karimullah* in that the transmitter sends the phone number. Should a phone number need to be changed, the transmitter would have to be re-programmed. In the case of *Karimullah*, the processing center can keep abreast of the phone number changes, and thus dynamically change the phone number.

In conclusion, Applicant respectfully submits that the distinctions between the embodiments of the present invention, as claimed, and the teachings of *Argyroudis* and *Karimullah* are not trivial. Thus, Applicant submits that the present claims are patentably distinct and not obvious in light of *Argyroudis* and *Karimullah*.

Third, *Turino* merely describes the circuitry commanding a modem to initiate calls. This system describes is nothing more than the circuitry used within any telephone-line based modem. This wired system in which the microcontroller “commands the modem” is entirely different from the claimed system including “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number,” or “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number,” as recited in claim 66.

Finally, *Brown* also does not disclose “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number” and “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number,” as recited in claim 66. FIGs. 5-14 of *Brown* describe, in great detail, the content and format of the paged data messages from the command center to the pager receiver in the control unit. None of the nine diagrams, or the associated description, describe “a telephone number” in the data messages. Thus, *Brown* does not disclose “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number,” or “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number,” as recited in claim 66.

Therefore, Applicant asserts that the claim limitations disclosing “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number,” or “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number” in claim 66, are not disclosed, taught, or suggested by the proposed combination of *Argyroudis*, *Karimullah*, *Turino*, or *Brown* as alleged in paragraph 6 of the FINAL Office Action. Accordingly, Applicant respectfully submits that the rejection to claim 66 should be overturned.

(b) *Prima Facie* Case of Obviousness Not Established: No Suggestion or Motivation to Combine References as Suggested

The rejection of claim 66 should be overturned for the additional reason that the FINAL Office Action has failed to establish a *prima facie* case of obviousness. Specifically, Applicant respectfully submits that there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify *Argyroudis* by incorporating the teachings of *Karimullah*, *Turino*, or *Brown*.

Applicant respectfully submits that the purported motivation or suggestion provided by the FINAL Office Action (making it possible to contact a service provider for a service request, or to inform the service provider about pertinent information by using the destination identifier including a telephone number) is a classic example of impermissible hindsight reasoning based solely on Applicant's disclosure.

First, as apparently admitted in the FINAL Office Action, *Argyroudis* does not relate to a system that can "inform the service provider about pertinent information by using the destination identifier including a telephone number." Instead, the FINAL Office Action alleges that *Karimullah*, *Turino*, or *Brown* teach this concept.

However, the system taught in *Karimullah* teaches, at most, a transmission of "*a service request codeword* indicating a request for service from at least one of the service providers 110, *a control channel codeword* identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, *and a transceiver identification codeword* identifying the transceiver." (*Emphasis added*, col. 4, lines 52-60). *Karimullah* simply does not disclose the concept of a "destination identifier including a telephone number."

Second, the alleged transmitter of *Karimullah* does not transmit “a telephone number,” but rather, the processing center 90 determines the telephone number based on a transmitted codeword. A “codeword” is not equivalent to a “telephone number.”

Third, *Turino* merely describes the circuitry commanding a modem to initiate calls. This wired system in which the microcontroller “commands the modem” is entirely different from the claimed system used to transmit information including a phone number to a transceiver.

Finally, FIGs. 5-14 of *Brown* describe, in great detail, the content and format of the paged data messages from the command center to the pager receiver in the control unit. None of the nine diagrams, or the associated description, describe “a telephone number” in the data messages.

Thus, neither *Argyroudis*, *Karimullah*, *Turino*, or *Brown* discloses, teaches, or suggests the concept underlying the motivation to combine as formulated by the FINAL Office Action (“making it possible to contact a service provider for a service request, or to inform the service provider about pertinent information by using the destination identifier including a telephone number”). Thus, since none of the four combined references include this concept, and the concept would not be obvious to one of ordinary skill in the art, it appears that the Applicant’s disclosure provides the impetus for the alleged obviousness. It is apparent that improper hindsight reconstruction was used in rejecting claim 66.

Therefore, Applicant respectfully submits that the FINAL Office Action does not establish a proper motivation or suggestion to combine *Argyroudis* with the teachings of *Karimullah*, *Turino*, or *Brown* such as to render obvious claims 66, and the rejection to claim 66 should be overturned for at least this additional reason.

D. Discussion of Claim Group III

The FINAL Office Action rejects claim 67 under two rationales, each of which should be overturned for the reasons set forth in detail below.

1. The Rejection of Claim 67 Under the Doctrine of Obviousness-Type Double Patenting is Obviated or Otherwise Improper

The FINAL Office Action provisionally rejects claim 67 under the doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 1-37 of the ‘327 *Petite* patent in view of *Karimullah*. However, Applicant submitted a terminal disclaimer, which is attached as Appendix B, in compliance with 37 CFR 1.321(c) in the “RESPONSE TO FINAL OFFICE ACTION” filed March 11, 2004, therefore obviating this rejection. Accordingly, for at least this reason, this rejection to claim 67 should be overturned.

2. Claim 67 is Patentable Over U.S. Patent 5,714,931 to Petite *et al.* in View of *Karimullah*

The FINAL Office Action rejects claim 67 under 35 U.S.C. §103(a) as being allegedly unpatentable over the ‘931 *Petite* patent in view of *Karimullah*. Applicant respectfully traverses for at least the reason that the ‘931 *Petite* patent should have been excluded as a prior art reference in the 35 U.S.C. §103(a) rejection, and *Karimullah* alone does not disclose, teach, or suggest each and every element of claim 67.

35 U.S.C. §103(c) provides for an exclusion of prior art to be used in a §103(a) rejection. Such prior art must be prior art under §102(e), §102(f), or §102(g) and must be commonly owned with the owner of the invention at the time the invention was made. The ‘931 *Petite*

patent is §102(e) art and is commonly owned by the owner of the present invention, Statsignal Systems, Inc. Therefore, the ‘931 *Petite* patent should be excluded as a prior art reference in a §103(a) rejection.

The effective filing date of the pending application is prior to the date of patent for the ‘931 *Petite* patent, thus making the ‘931 *Petite* patent §102(e) art and not §102(a) art. Further, ownership of the ‘931 *Petite* patent can be verified by the assignment attached hereto as Exhibit C. Likewise, common ownership of the present application is evidenced by the assignment attached as Exhibit D, as well as the assignment recorded for the parent application attached as Exhibit E. As noted from the assignment documents, the ‘931 *Petite* patent and the present application were commonly owned by Statsignal Systems, Inc. when the present invention was made.

For at least this reason, §103 (c) requires that the ‘931 *Petite* patent is not prior art. Plus, the remaining prior art reference, *Karimullah*, does not disclose, teach or suggest the feature of a controller “wherein the controller is a programmable circuit.” In fact, the FINAL Office Action relies on the ‘931 *Petite* patent, which is not valid prior art, to supply this missing element. Accordingly, the rejection of claim 67 should be overturned.

E. Discussion of Claim Group IV

The FINAL Office Action rejects claim 68 under two rationales, each of which should be overturned for the reasons set forth in detail below.

1. The Rejection of Claim 68 Under the Doctrine of Obviousness-type Double Patenting is Obviated or Otherwise Improper

The FINAL Office Action provisionally rejects claim 68 under the doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 1-37 of the ‘327 *Petite* patent in view of *Karimullah*. However, Applicant submitted a terminal disclaimer, which is attached as Appendix B, in compliance with 37 CFR 1.321(c) in the “RESPONSE TO FINAL OFFICE ACTION” filed March 11, 2004, therefore obviating this rejection. For at least this reason, this rejection to claim 68 should be overturned.

2. Claim 68 is Patentable Over U.S. Patent 5,714,931 to Petite *et al.* in View of *Karimullah*

The FINAL Office Action rejects claim 68 under 35 U.S.C. §103(a) as being allegedly unpatentable over the ‘931 *Petite* patent in view of *Karimullah*. Applicant respectfully traverses for at least the reason that the ‘931 *Petite* patent should have been excluded as a prior art reference in the 35 U.S.C. §103(a) rejection, and *Karimullah* alone does not disclose, teach, or suggest each and every element of claim 68.

35 U.S.C. §103(c) provides for an exclusion of prior art to be used in a §103(a) rejection. Such prior art must be prior art under §102(e), §102(f), or §102(g) and must be commonly owned with the owner of the invention at the time the invention was made. The ‘931 *Petite* patent is §102(e) art and is commonly owned by the owner of the present invention, Statsignal Systems, Inc. Therefore, the ‘931 *Petite* patent should be excluded as a prior art reference in a §103(a) rejection.

The effective filing date of the pending application is prior to the date of patent for the ‘931 *Petite* patent, thus making the ‘931 *Petite* patent §102(e) art and not §102(a) art. Further, ownership of the ‘931 *Petite* patent can be verified by the assignment attached hereto as Exhibit C. Likewise, common ownership of the present application is evidenced by the assignment attached as Exhibit D, as well as the assignment recorded for the parent application attached as Exhibit E. As noted from the assignment documents, the ‘931 *Petite* patent and the present application were commonly owned by Statsignal Systems, Inc. when the present invention was made.

For at least this reason, §103 (c) requires that the ‘931 *Petite* patent is not prior art. Plus, the remaining prior art reference, *Karimullah*, does not disclose, teach or suggest the feature of a controller “wherein the controller further comprises a look-up table configured to decode the encoded information.” In fact, the FINAL Office Action relies on the ‘931 *Petite* patent, which is not valid prior art, to supply this missing element. For at least this reason, this rejection to claim 68 should be overturned.

IX. CONCLUSION

Based upon the foregoing discussion, Applicant respectfully requests that the Examiner's FINAL rejection of claims 33, 35 – 50, 52 – 55, and 57 - 73 be overruled and overturned by the Board, and that the application be allowed to issue as a patent with all pending claims 33, 35 – 50, 52 – 55 and 57 - 73.

A credit card authorization is enclosed herewith to cover the \$165.00 fee for this Appeal Brief. No additional fees are believed to be due in connection with this Appeal Brief. If, however, any additional fees are deemed to be payable, you are hereby authorized to charge any such fees to deposit account No. 20-0778.

Respectfully submitted,



N. Andrew Crain
Reg. No. 45,442

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APPENDIX A

Claims

1. - 32. (Canceled)

33. (Previously presented) A system for communicating information to a predetermined location, the system comprising:

an extremely low-power transmitter configured to wirelessly transmit an extremely low-power signal comprising the information;

a central location configured to receive the information and communicate via telephone line in the public service telephone network (PSTN); and

a transceiver, located remote from, but in close proximity to the transmitter and configured to establish communication with the central location based on a telephone number included in the low-power signal, the transceiver comprising:

a line interface circuit configured to interface with a telephone line; and

a controller configured to receive the low-power signal and communicate the information over the telephone line to the central location.

34. (Canceled)

35. (Original) The system of claim 33, wherein the low power signal further comprises a logical I.P. such that the transceiver can route the information to the central station.

36. (Original) The system of claim 33, wherein the transmitter is configured to transmit a low power radio frequency (RF) signal.

37. (Original) The system of claim 33, wherein the information comprises a transmitter identifier code, a unique transmission destination address, and a burst transmission length identifier.

38. (Original) The system of claim 33, wherein the controller is further configured to communicate a transceiver identification code to the central station.

39. (Original) The system of claim 38, wherein the central location comprises means for evaluating the transceiver identification code.

40. (Original) The system of claim 39, wherein the evaluating means further determines geographical location of the transceiver based upon the transceiver identification code.

41. (Original) The system of claim 33, wherein the central location comprises means for notifying service personnel in response to the information.

42. (Original) The system as defined in claim 37, wherein the transmitted signal further comprises:

- a message identification field;
- a packet identification field; and
- a data field.

43. (Original) The system as defined in claim 37, wherein the unique transmission destination address is an Internet protocol (IP) address.

44. (Original) The system as defined in claim 42, wherein the transmitted signal further comprises:

- a field adaptively configured for data transmission error correction.

45. (Original) The system as defined in claim 42, wherein the transmitted signal further comprises:

- a field configured to indicate to a destination device that a subsequent message is to follow.

46. (Previously presented) A method for communicating information to a predetermined location, the method comprising:

 wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, wherein the information signal is an extremely low-power signal including a telephone number of a central location;

 receiving the information signal by remote transceiver;

 placing a telephone call from circuitry coupled to the transceiver to the central location identified by the telephone number via a phone line which comprises part of a public switched telephone network (PSTN);

 communicating at least a portion of the information signal from the transceiver to the central location; and

 decoding at least a portion of the information signal by the central location.

47. (Original) The method of claim 46, wherein the method further comprises:

 communicating a transceiver identification code from the transceiver to the central location.

48. (Original) The method of claim 47, wherein decoding further comprises:
 decoding the transceiver identification code.

49. (Original) The method of claim 47, wherein the method further comprises:
 evaluating the transceiver identification code; and
 determining a geographical location of the transceiver based upon the evaluating step.

50. (Original) The method of claim 46, wherein the information signal further comprises a transmitter identification code.

51. (Canceled)

52. (Original) The method of claim 46, wherein the information signal further

comprises a logical IP address of the central location.

53. (Original) The method of claim 50, wherein decoding further comprises: decoding the transmitter identification code.

54. (Original) The method of claim 53, wherein the method further comprises: evaluating the transmitter identification code, and determining a geographic location of the transmitter based upon the evaluating step.

55. (Previously presented) A system for communicating information to a central location, the system comprising:

means for wirelessly transmitting an extremely low-power signal comprising the information, the information including a telephone number;

means for receiving the extremely low-power signal, the means for receiving being remote but within close proximity to the wireless transmitting means;

means for telephonically transmitting the information to the central location identified by the telephone number via a public service telephone network (PSTN); and

means for receiving the information at the central location.

56. (Canceled)

57. (Original) The system of claim 55, wherein the low powered signal further comprises a logical IP address, and wherein the means for telephonically transmitting accesses the central location via the logical IP address.

58. (Original) The system of claim 55, wherein the low power signal is a low power RF signal.

59. (Original) The system of claim 55, wherein the low power signal is a low power

infrared (IR) signal.

60. (Original) The system of claim 55, wherein the low power signal is a low power ultrasound signal.

61. (Original) The system of claim 55, wherein the low powered signal comprises a transmitter identifier code, a unique transmission destination address, and a burst transmission length identifier.

62. (Original) The system of claim 55, wherein the means for telephonically transmitting further communicates a transceiver identification code of the means for receiving the information.

63. (Original) The system of claim 62, wherein the means for receiving the low powered signal further comprises the means for evaluating the transceiver identification code.

64. (Original) The system of claim 63, wherein the evaluating means further determines a geographical location of the transceiver.

65. (Original) The system of claim 55, wherein the means for receiving the low powered signal further comprises means for notification in response to the information.

66. (Previously presented) A transceiver that wirelessly communicates with an extremely low-power transmitter and telephonically communicates with a central location, the transceiver comprising:

a wireless receiver configured to wirelessly receive an extremely low-power signal, the extremely low-power signal being wirelessly transmitted in close proximity to the receiver, the extremely low-power signal comprising encoded information and a telephone number;

a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number, the telephone line comprising part of the public switched telephone network (PTSN); and

a controller comprising:

a first portion, connected to the wireless receiver, configured to obtain the information encoded in the received extremely low-power signal; and

a second portion, connected to the telephonic transmitter, configured to deliver the obtained information to the transmitter.

67. (Original) The transceiver of claim 66, wherein the controller is a programmable circuit.

68. (Original) The transceiver of claim 66, wherein the controller further comprises a look-up table configured to decode the encoded information.

69. (Original) The transceiver of claim 66, wherein the low power signal is a low power RF signal.

70. (Original) The transceiver of claim 66, wherein the low power signal is a low power IR signal.

71. (Original) The transceiver of claim 66, wherein the low power signal is a low power ultrasound signal.

72. (Previously presented) A method for relaying an electronic message from an extremely low-power transmitter to a central location, the method comprising:

wirelessly transmitting an information signal from the transmitter to a remotely located transceiver, the information signal comprising a unique message code, wherein the transmitter is in close proximity to the transceiver;

receiving the information by the remotely located transceiver;

placing a telephone call from the transceiver to the central location, the central location being identified by a phone number contained within the information signal, over a phone line comprising part of a public switched telephone network (PSTN); and

communicating the unique message code from the transceiver to the central location.

73. (Previously presented) A transceiver comprising:

means for receiving an extremely low-power electromagnetic signal, the electromagnetic signal including an encoded message code and a telephone number;

means for transmitting a formatted electric signal over a phone line to a predetermined destination identified by the telephone number comprising part of the public switched telephone network (PSTN); and

means for obtaining the message code from the electric signal and delivering the obtained code to the means for transmitting over the phone line.

TERMINAL DISCLAIMER TO OBLIGATE A DOUBLE PATENTING
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081607-1021

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In re Application of: Petite

Application No. 09/756,386

Filed: January 8, 2001

For: MULTI-FUNCTION GENERAL PURPOSE TRANSCEIVER

JUN 04 2004

Technology Center 2600

The owner*, StatSignal Systems, Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,233,327. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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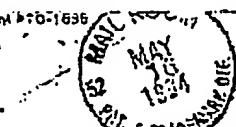
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**ASSIGNMENT
OF UTILITY PATENT APPLICATION**

WHEREAS, the following parties:

<u>Name</u>	<u>Address</u>
Thomas D. Petite	6586 Oakwood Drive, Douglasville, GA 30135

hereinafter referred to as ASSIGNOR, has/have invented certain new and useful improvements ("invention(s)") as described and set forth in the below-identified utility application for United States Letters Patent entitled:

MULTI-FUNCTION GENERAL PURPOSE TRANSCEIVER,

which was:

- executed on even date herewith,
- filed with the United States Patent and Trademark Office (USPTO) on January 8, 2001, and assigned Serial No. 09/756,386, and
- further described in U.S. Provisional application entitled , filed with the USPTO on , and assigned Serial No. .

Note: Only one of the first two checkboxes will be checked. The third checkbox will be checked, only if appropriate.

WHEREAS, StatSignal Systems, Inc., having a place of business at 2859 Paces Ferry Road, Suite 1650, Atlanta, Georgia 30339, hereinafter referred to as ASSIGNEE, is desirous of acquiring ASSIGNOR'S interest in and to said invention(s), said utility application, said provisional application, and any U.S. and foreign patents which are related to the same.

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN: Be it known that, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by ASSIGNOR, ASSIGNOR has sold, assigned and transferred and does hereby sell, assign and

transfer unto ASSIGNEE, and ASSIGNEE'S successors and assigns, (a) the entire right, title and interest, for the United States of America, in and to said invention(s), said utility application, and said Provisional application and all the rights and privileges in any application and under any and all patents that may be granted in the U.S. for said inventions, including all corresponding provisional, continuation, continuation in part, divisional, reissue, and reexamination applications; and (b) the entire right, title and interest in and to said invention(s), said utility application, and said provisional application for all countries foreign to the U.S., including all rights of priority arising from them, and all the rights and privileges under any and all forms of protection, including patents, that may be granted in said countries foreign to the U.S. for them.

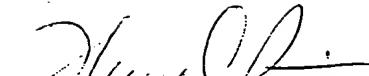
ASSIGNOR authorizes ASSIGNEE to make application for such protection in its own name and maintain such protection in any and all countries foreign to the U.S., and to invoke and claim for any application for patent or other form of protection for said Inventions, without further authorization from ASSIGNOR, any and all benefits, including the right of priority provided by any and all treaties, conventions, or agreements.

ASSIGNOR hereby consents that a copy of this assignment shall be deemed a full legal and formal equivalent of any document which may be required in any country in proof of the right of ASSIGNEE to apply for patent or other form of protection for said Inventions, said utility application, or said provisional application and to claim the aforesaid benefit of the right of priority.

ASSIGNOR requests that any and all patents for said inventions be issued to ASSIGNEE in the U.S. and to ASSIGNEE in all countries foreign to the U.S., or to such nominee as ASSIGNEE may designate.

ASSIGNOR covenants and agrees that, when requested, ASSIGNOR shall, without charge to ASSIGNEE but at ASSIGNEE'S expense, sign all papers, take all rightful oaths, and do all acts which may be necessary, desirable, or convenient in connection with the patent applications, patents, or other forms of protection of said invention(s), and for the defense and protection thereof if challenged in the court of law.

ASSIGNOR authorizes ASSIGNEE or its agents to insert, on ASSIGNOR's behalf, the filing date and/or serial number above pertaining to the utility application and/or the provisional application, if not known as of the date of execution of this document.



Thomas D. Petite

Date: July 9, 2001

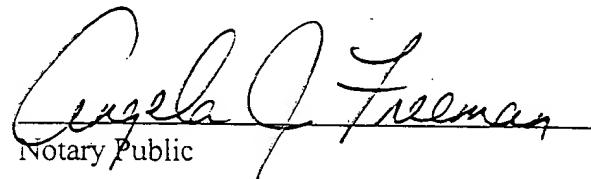
United States of America

State of Georgia

County of



On this 9th day of July, 2001, before me personally came **Thomas D. Petite** to me known to be the individual described above and who executed the foregoing instrument, or acknowledged execution of the same.



Angela J. Freeman
Notary Public

Notary Public, DeKalb County, Georgia
My Commission Expires October 30, 2004

My Commission Expires (Date)

ASSIGNMENT AND AGREEMENT

WHEREAS:

<u>Name</u>	<u>Address</u>
Thomas D. Petite	Douglasville, Georgia

hereinafter referred to as ASSIGNOR, has/have invented certain new and useful improvements as described and set forth in the below-identified application for United States Letters Patent entitled:

MULTI-FUNCTION GENERAL PURPOSE TRANSCEIVER

which was:

- executed on even date herewith,
- filed with the United States Patent and Trademark Office on _____, and assigned Serial No. _____, and
- further described in U.S. Provisional Application entitled Card Replacement Transceiver For Use With Automatic Teller Machines, filed with the United States Patent and Trademark Office on February 14, 1997, and assigned Serial No. 60/040,316.

Note: Only one of the first two checkboxes will be checked. The third checkbox will be checked, only if appropriate.

WHEREAS, StatSignal Systems, Inc., having a business at 6065 Roswell Rd., Suite 805, Atlanta, Georgia 30328, hereinafter referred to as ASSIGNEE, is desirous of acquiring ASSIGNOR'S interest in said invention(s) and application and in any U.S. and foreign patents which may be granted on the same.

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN: Be it known that, for good and valuable consideration, receipt of which is hereby acknowledged by ASSIGNOR, ASSIGNOR has sold, assigned and transferred and by this agreement does hereby sell, assign and transfer unto ASSIGNEE, and ASSIGNEE'S successors and assigns, the entire right, title and interest, for the United States of America, in and to certain inventions to said invention(s) and application and all the rights and privileges in any application and under any and all patents that may be granted in the United States for said inventions, including all continuations, continuations in part, divisionals, reissues, and reexaminations; and ASSIGNOR also concurrently hereby sells, assigns and transfers to ASSIGNEE the entire right, title and interest in and to said inventions for all countries foreign to the United States, including all rights of priority arising from the application for said patent, and all

the rights and privileges under any and all forms of protection, including patents, that may be granted in said countries foreign to the United States for said inventions.

ASSIGNOR authorizes ASSIGNEE to make application for such protection in its own name and maintain such protection in any and all countries foreign to the United States, and to invoke and claim for any application for patent or other form of protection for said inventions, without further authorization from ASSIGNOR, any and all benefits, including the right of priority provided by any and all treaties, conventions, or agreements.

ASSIGNOR hereby consents that a copy of this assignment shall be deemed a full legal and formal equivalent of any document which may be required in any country in proof of the right of ASSIGNEE to apply for patent or other form of protection for said inventions and to claim the aforesaid benefit of the right of priority.

ASSIGNOR requests that any and all patents for said inventions be issued ASSIGNEE in the United States and to ASSIGNEE in all countries foreign to the United States, or to such nominees as ASSIGNEE may designate.

ASSIGNOR agrees that, when requested, ASSIGNOR shall, without charge to ASSIGNEE but at ASSIGNEE'S expense, sign all papers, take all rightful oaths, and do all acts which may be necessary, desirable, or convenient in connection with the patent applications, patents, or other forms of protection of the above-referenced invention, and for the defense and protection thereof if challenged in the court of law.

ASSIGNOR further agrees that the filing date and serial number above may be inserted on ASSIGNOR'S behalf by ASSIGNEE or its agents, if they are not known as of the date of execution of this document.

Thomas D. Petite
Thomas D. Petite

Date: 6-22-98

United States of America

State of Georgia ss:

County of _____

On this _____ day of _____, 1998, before me personally came **Thomas D. Petite** to me known to be the individual described above and who executed the foregoing instrument, or acknowledged execution of the same.

Notary Public

My Commission Expires (Date)

described in Example 2 to the situation described in Example 1.

718 Affidavit or Declaration to Disqualify Commonly Owned Patent as Prior Art, 37 CFR 1.130

37 CFR 1.130. Affidavit or declaration to disqualify commonly owned patent or published application as prior art.

(a) When any claim of an application or a patent under reexamination is rejected under 35 U.S.C. 103 on a U.S. patent or U.S. patent application publication which is not prior art under 35 U.S.C. 102(b), and the inventions defined by the claims in the application or patent under reexamination and by the claims in the patent or published application are not identical but are not patentably distinct, and the inventions are owned by the same party, the applicant or owner of the patent under reexamination may disqualify the patent or patent application publication as prior art. The patent or patent application publication can be disqualified as prior art by submission of:

- (1) A terminal disclaimer in accordance with § 1.321(c); and
- (2) An oath or declaration stating that the application or patent under reexamination and patent or published application are currently owned by the same party, and that the inventor named in the application or patent under reexamination is the prior inventor under 35 U.S.C. 104.

(b) When an application or a patent under reexamination claims an invention which is not patentably distinct from an invention claimed in a commonly owned patent with the same or a different inventive entity, a double patenting rejection will be made in the application or a patent under reexamination. A judicially created double patenting rejection may be obviated by filing a terminal disclaimer in accordance with § 1.321(c).

See MPEP § 804.03 and § 706.02(I) through § 706.02(I)(3) for subject matter disqualified as prior art under 35 U.S.C. 103(c) where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

37 CFR 1.130(a) addresses those situations in which the rejection in an application or patent under reexamination to be overcome is a rejection under 35 U.S.C. 103 in view of a U.S. patent or U.S. patent application publication due to the requirement in 37 CFR 1.131 that any U.S. patent or U.S. patent application publication to be antedated not claim the same patentable invention (as defined in 37 CFR 1.601(n)) as the application or patent under reexamination. The applicant or patent owner is also prevented from proceeding in an interference due to the

provision in 37 CFR 1.602(a) that an interference not normally be declared or continued between applications owned by a single party, or an application and an unexpired patent owned by a single party.

As 37 CFR 1.130(a) addresses those situations in which the inventions defined by the claims in the application or patent under reexamination and by the claims in the U.S. patent or patent application publication are not patentably distinct, 37 CFR 1.130(a) requires a terminal disclaimer in accordance with 37 CFR 1.321(c), and 37 CFR 1.130(a)(2) requires an oath or declaration stating, *inter alia*, that the inventor named in the application or patent under reexamination is the prior inventor under 35 U.S.C. 104. The inventor named in the application or patent under reexamination must have invented the claimed subject matter before the actual date of invention of the subject matter of the reference claims. The affidavit or declaration may be signed by the inventor(s), attorney or agent of record, or assignee(s) of the entity of interest.

The phrase "prior inventor under 35 U.S.C. 104" requires that the inventor named in the application or patent be the prior inventor within the meaning of 35 U.S.C. 104, in that an applicant or patent owner may not:

(A) establish a date of invention in a foreign country other than a NAFTA or WTO member country;

(B) establish a date of invention in a WTO member country other than a NAFTA country earlier than January 1, 1996; or

(C) establish a date of invention in a NAFTA country other than the U.S. earlier than December 1, 1993.

37 CFR 1.130(b) provides that when an application or a patent under reexamination claims an invention which is not patentably distinct from an invention claimed in a commonly owned patent with the same or a different inventive entity, a double patenting rejection will be made in the application or a patent under reexamination. A judicially created double patenting rejection may be obviated by filing a terminal disclaimer in accordance with 37 CFR 1.321(c). See MPEP § 804.02.

A U.S. patent or U.S. patent application publication that anticipates the claimed subject matter cannot